IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

OP.No. 1431 of 2002(U)

PETITIONER:

N. PARVATHI KUMARI, W/O. K. RAMAN
MOOSAD, RESIDING AT TAMRA, PANAYUR P.O.,
POLPULLY, PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SMT.M.R.VALSA

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED**
   BY THE SECRETARY TO EDUCATION DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE ACCOUNTANT GENERAL (AUDIT),**
   KERALA, P.B.NO.5608, THIRUVANANTHAPURAM-695 039.

3. **THE DEPUTY DIRECTOR OF EDUCATION,**
   KOTTAYAM.

BY GOVERNMENT PLEADER SMT.N.SUDHA DEVI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.2475/2002 IN OP. NO.1431/2002

DISMISSED

20/06/2007 **SD/- T.R.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT DT. 7.3.01.

EXT.P2:- COPY OF THE JUDGMENT IN OP. NO.2567/1999 ON THE FILE OF THIS HONOURABLE COURT DT. 21.3.01.

EXT.P3:- COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT DT. 14.12.01.

/TRUE COPY/

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T.R. RAMACHANDRAN NAIR, J.

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O.P. No. 1431 OF 2002 U
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Dated this the 20th June, 2007

J U D G M E N T

The petitioner retired as the Principal of Govt. Boys High School, Chittur on 31-3-2000. It is admitted that even though the retirement benefits were sanctioned, due to an audit objection an amount of Rs.82,592/- was withheld. The objection related to the approval of appointment of a Headmistress by the petitioner who was at that time working as Assistant Educational Officer, Kozhuvanal, Kollam.

2. It appears that there was an audit objection against the said Headmistress Smt. Lillykutty also, for the very same amount of Rs.82,592/-. The said issue was raised before this Court by her in O.P. No. 2567/1999. As per Ext. P2 judgment this Court held that the order of approval was never set aside by any competent authority and hence no amount can be recovered. The authorities were directed to pay the D.C.R.G. to the said petitioner also within two months from the date of the judgment. Subsequently, the petitioner was served with Ext. P3 stating that the

audit objection has been dropped in view of the above judgment. The amount withheld from the retirement benefits of the petitioner has been disbursed on 30-6-2003. The surviving question that is raised here is regarding the liability of the respondents to pay interest for the delayed payment of the said amount. The petitioner relied upon the dictum laid down in the decision reported in ***State of Kerala v. Padmanabhan Nair*** (1985 KLT 86 SC).

3. Going by the decisions of the Apex Court especially 1985 KLT 86 supra, any culpable delay in finalising the audit objection and disbursing the retirement benefits should invite payment of interest at the market rate till the actual date of payment. Here is a case where the audit objection in regard to the payment of retirement benefits was about an order of the approval granted to the appointment of a Headmistress. Going by Ext. P2 judgment this Court had held that the said objection also is not valid as none of the authorities had at any time set aside the order of approval. Therefore, it is a case where the petitioner cannot be faulted at all for granting the

approval to the appointment of the Headmistress.

Therefore, at any rate the petitioner will be entitled to be paid interest from the date of Ext. P3. Therefore, there will be a direction to the respondents to calculate interest at the rate of 6% per annum on the amount of Rs.82,592/- till the date of payment, ie. 30-6-2003 and disburse the same within a period of three months from the date of receipt of a copy of this judgment. No costs.

T.R. RAMACHANDRAN NAIR
JUDGE

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